

ORDINANCE NO. 08-91

ORDINANCE REPEALING AND RESCINDING HIALEAH, FLA., ORDINANCE 83-36 (MAR. 22, 1983) THAT GRANTED AN SUP TO ALLOW MULTIPLE FAMILY RESIDENTIAL USE ON COMMERCIAL PROPERTY NOT TO EXCEED 150 UNITS AND RELEASING AND CANCELING UNRECORDED DECLARATION OF RESTRICTIVE COVENANTS DATED JANUARY 14, 1983 SUBMITTED WITH SUP APPLICATION; **PROPERTY LOCATED AT 4410 WEST 16 AVENUE, HIALEAH, FLORIDA, FOLIO NO. 04-3002-090-0030.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of October 22, 2008 recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Hialeah, Fla., Ordinance 83-36 (Mar. 22, 1983) is hereby repealed and rescinded in its entirety and the City of Hialeah, Florida hereby releases and cancels the Declaration of Restrictive Covenants dated January 14, 1983 submitted with SUP application. Property located at 4410 West 16 Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOTS 3 AND 4, BLOCK 1, MATANZAS SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 120, PAGE 78, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.


Section 4: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

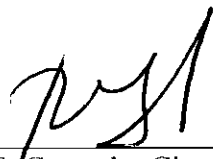
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

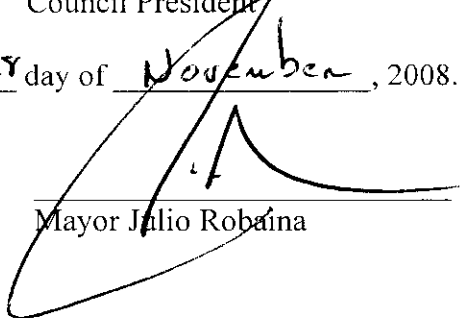
PASSED and ADOPTED this 25th day of November, 2008.


Carlos Hernandez
Council President

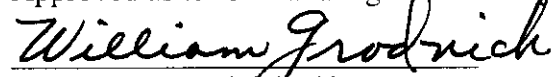
Attest:

Approved on this 28 day of November, 2008.


Rafael E. Granado, City Clerk


Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

Ordinance was adopted by a 6-0-1 vote with Councilmembers, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes" and Councilmember Caragol absent.

ORDINANCE REZONING PROPERTY FROM C-2 (LIBERAL RETAIL COMMERCIAL) TO C-2 (LIBERAL RETAIL COMMERCIAL) AND TO SU-P (SPECIAL USE-PROPERTY) TO ALLOW MULTIPLE FAMILY RESIDENTIAL USE ON SAID PROPERTY, NOT TO EXCEED 150 UNITS, LOCATED ON THE WEST SIDE OF WEST 16 AVENUE, BETWEEN WEST 42 AND WEST 44 PLACES, HIALEAH, FLORIDA; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTY FOR THE VIOLATION HEREOF.

WHEREAS, the Planning and Zoning Board, at their regular meeting of February 9, 1983, neither recommended nor denied the adoption of this ordinance.

WHEREAS, the Affidavit, which the petitioner has agreed that if there is a change in the use of said property after SU-P has been granted, or if the said use is discontinued or if there are any other violations in the use of said property, the property shall revert back to the zoning classification prior to the granting of SU-P, is attached and made a part of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HIALEAH:

Section 1. The following legally described property is hereby rezoned from C-2 (Liberal Retail Commercial) to C-2 (Liberal Retail Commercial) and to SU-P (Special Use-Property) to allow multiple family residential use on said property, not to exceed 150 units:

Lots 3 and 4, Block 1, Matanzas Subdivision,
as recorded in Plat Book 120, Page 78, of
the Public Records of Dade County, Florida.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. Any person, firm or corporation convicted of violating the provisions of this ordinance shall be punished by a fine, not exceeding \$500.00, or by a jail sentence, not exceeding 60 days, or both, in the discretion of the Court.

PASSED and ADOPTED this 22nd day of March, 1983.

I, the undersigned CITY CLERK of the
CITY OF HIALEAH, FLORIDA, do
hereby certify that the foregoing
Ordinance was published in ac-
cording to the provisions of the
Florida Constitution, Article V,
Section 10, and the Charter of the
City of Hialeah, Florida.

ATTEST: [Signature]
City Clerk Pro Tem

[Signature]
President of Council

APPROVED: [Signature]

Mayor

APPROVED AS TO LEGAL
SUFFICIENCY AND FORM:

[Signature]
City Attorney

509010

ORDINANCE was adopted by a unanimous vote with Councilmen Cardoso, Coleman, Gunn, Nunez, Robinson, Swezy and Wilde voting "Yes."

DECLARATION OF RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS:

That herein WILFREDO GARCIA, PRESIDENT, E. W. L. CORP.,

Being the fee simple owner/authorized owner of lands described herein:

Lots 3 and 4, Block 1, Matanzas Subdivision, according to the Plat thereof,
as recorded in Plat Book 120, Page 78, of the Public Records of Dade County,
Florida.

aka West of West 16 Avenue, between West 42 Place & West 44 Place, Hialeah, Florida.
makes the following Declaration of Restrictive Covenants covering and running with the Pro-
perty, specifying that this restriction during its lifetime shall be for the benefit of and
a limitation upon all present and future owners of the real property described above, in
favor of and enforceable by the City of Hialeah, Florida. The undersigned is seeking an
application for a Special Use Property Zoning and/or Special Use Owner Zoning approval for
the Property to permit its use for a Multiple Family use, approximately 150 units.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The undersigned agrees and understands that the use of the Property shall be
limited as follows:

a. Combined use of shopping center and multiple family residential use of

approximately 150 units.

b.

2. This instrument shall not become effective unless and until the City Council of the City of Hialeah approved the undersigned's application for Special Use Property Zoning and/or Special Use Owner Zoning of the Property. Upon becoming effective, this instrument shall be recorded in the Public Records of Dade County, Florida and constitute a covenant running with the title to the land described above, binding upon the undersigned and its successors and assigns.

3. This instrument and the restrictions set forth herein may be modified, amended, or released as to any portion of the land described above by written instrument executed by the then owner of the fee simple title to the lands to be affected by such modification, amendment, release, and approved after public hearing by the City Council of the City of Hialeah. Should this instrument be so modified, amended, or released by the City Council the Director of Planning and Zoning shall execute a written instrument that shall be recorded in the Public Records of Dade County effectuating and acknowledging such modification, amendment or release.

4. Where construction has occurred on said Property described above, pursuant to a permit issued by the City of Hialeah, and inspections made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the above-referenced restrictions and this Declaration of Restrictive Covenants shall not be construed as clouding the title of any of said Property on which such development has occurred.

5. It is understood that if approved all applicable Federal, State, County, City Laws, rules, regulations shall be upheld with force and effect and must be complied with.

IN WITNESS WHEREOF, The OWNER/APPLICANT, WILFREDO GARCIA, PRESIDENT OF E. W. L.
has caused these presents to be executed this _____ day of _____ CORP.
19__

WITNESS:

[Signature]

P. DeAnne Ramsay

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 14TH DAY OF Jan, 1981

[Signature]
NOTARY PUBLIC

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES FEB. 17, 1986
BONDED THRU GENERAL INS. UND.

BY: [Signature]

PRINT: WILFREDO GARCIA

TITLE: PRES E.W.L. Corp

OWNERS SIGNATURE IF APPLICANT IS NOT
THE OWNER:

BY: _____

PRINT: _____

TITLE: _____

WITNESS:

SWORN TO AND SUBSCRIBED BEFORE ME

THIS _____ DAY OF _____, 19__

NOTARY PUBLIC

DATE COMPLETED APPLICATION RECEIVED BY
PLANNING AND ZONING DEPARTMENT: _____

BY: _____